IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

MACA.No. 1412 of 2007()

OPMV.90/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR
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APPELLANT/3RD RESPONDENT:

THE NATIONAL INSURANCE CO. LTD.,
PERUMBAVOOR, REPRESENTED BY ITS MANAGER,
MOTOR THIRD PARTY CELL, M.G.ROAD,
ERNAKULAM.

BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

RESPONDENTS: CLAIMANTS/ADDL.RESPONDENTS 4 AND 5.
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1. **SOBHA DAS, W/O LATE MOHAN DAS,**
   KUTTAPPILLY HOUSE, MADAKKATHARA P.O.,
   KOTHARA, PULLANICKAD, RESIDING AT MALAYATTOOR,
   MALAYATTOR VILLAGE.

2. **ASHMEY, BEING MINOR,**
   REPRESENTED BY NEXT FRIEND, MOTHER
   SOBHA DAS, W/O LATE MOHAN DAS,
   KUTTAPPILLY HOUSE, MADAKKATHARA P.O.,
   KOTHARA, PULLANICKAD, RESIDING AT MALAYATTOOR,
   MALAYATTOR VILLAGE.

3. **AKHIL @ APPU, REPRESENTED BY MOTHER**
   SOBHA DAS, W/O LATE MOHAN DAS,
   KUTTAPPILLY HOUSE, MADAKKATHARA P.O.,
   KOTHARA, PULLANICKAD, RESIDING AT
   MALAYATTOOR VILLAGE, MALAYATTOOR.

4. **RINU, REPRESENTED BY MOTHER,**
   SOBHA DAS, W/O LATE MOHAN DAS,
   KUTTAPPILLY HOUSE, MADAKKATHARA P.O.,
   KOTHARA, PULLANICKAD, RESIDING AT
   MALAYATTOOR VILLAGE, MALAYATTOOR.

5. **THE UNITED INDIA INSURANCE CO. LTD.,**
   PERUMBAVOOR.

6. THE GENERAL MANAGER,
M/S TREND SETTERS, INSTYLE INDIA LTD., 20,
COCHIN EXPORT PROCESSING, COCHI.

BY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 01/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & V.GIRI, JJ.

M.A.C.A.NO.1412 OF 2007

Dated 1st August, 2007

JUDGMENT

Koshy,J.

Wife and children of a motor accident victim filed application for compensation for the untimely death of the person whom they were depending upon for their living. The accident occurred when motor cycle driven by him collided with motor cycle bearing Reg.No.KL – 7A – 413 ridden by the 1st respondent. According to the claimant, motor cycle which was ridden by the 1st respondent in a rash manner forcefully hit against the motor cycle ridden by the deceased and as a result the deceased was thrown out to the road and sustained injuries which resulted in the death. Claimants filed application under Section 163 A of the Motor Vehicles Act and compensation was awarded strictly as per the 2nd schedule. Insurance company questioned the award contending that if he himself is negligent, compensation under Section 163 A cannot be granted. But it is well settled law that under Section 163 A, negligence need not be proved. He claimed

compensation as a third party as against respondents are concerned. Tribunal also held that there was no evidence to show that deceased was careless. Respondents also did not adduce any evidence to show that accident occurred due to motor accident victim. Therefore merely because no proof was adduced by the claimant regarding the negligence of the 1st respondent herein under Section 163 A cannot be denied, as the very purpose of the Act is to grant compensation without proof of negligence. We see no ground to interfere in the impugned award and hence this appeal is dismissed.

J.B.KOSHY, JUDGE

V.GIRI,JUDGE

prp